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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,829	07/25/2001	Cherie G. House	93-10	7130

7590 09/29/2003

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EXAMINER

HANDY, DWAYNE K

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/912,829

Applicant(s)

HOUSE, CHERIE G.

Examiner

Dwayne K Handy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Duyne (3,466,145). Van Duyne teaches a urine collection device. The collection device is best shown in Figures 5 and 6 and is comprised of a receptacle (24) and a support for the receptacle (12, 14). The support is non-planar and includes a cup shaped cavity (22c or 22d) in which the lower portion of a cup (24) may be placed.

3. Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kroeger (4,137,573). Kroeger teaches a urine collection device. The device is best shown in Figures 1 and 2. The device includes a support structure (element 13 – called a “receptacle”) which supports a circular carrier member (40) which is rotatable in and able to be removed from the support structure. The carrier member includes lower portion of lesser diameter than the upper portion thus forming a lip (flange – 46) where the carrier member comes to rest on the support (13).

4. Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertelsen (5,060,317). Bertelsen also teaches a urine collection device. The device is best shown in Figures 1 and 2 and includes a specimen cup (17) and bracket (15) for holding the cup. The specimen cup (17) includes lower portion of lesser diameter than the upper portion thus forming a lip (11) where the carrier member comes to rest on the bracket (15). The Examiner considers this lower protrusion of the cup with the smaller diameter to be a "boss" structure.

5. Claims 1-13 and 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Stingley et al. (6,212,698). Stingley teaches a urine collection kit. The kit is best shown in Figures 2, 3 and 5 and is described in columns 2 and 3. The device includes a support structure (110, 120) which contains a port (200) for releasably seating a cup (300) therein. The support structure is comprised of a flexible strip with a collection trough depending from the strip. The ends (110) of the support structure are placed on the toilet rim (810) and seat (820) with the bag element (120) depending into the bowl. Figure 2 shows a U-shaped structure for the support. Figure 3 shows a cup (300) with a smaller diameter section with a frustoconical shape and a lip which allows for the placement of the cup on the port of the support. The Examiner considers this lower protrusion of the cup with the smaller diameter to be a "boss" structure. Figure 2 also shows a pair of spaced apart "legs" (walls 160 and 170).

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stingley et al. (6,212,698). Stingley, as described in paragraph 4 above, teaches every element of claim 14 except for a sterile cup. Stingley merely recites a cup. It would have been obvious to one of ordinary skill in the art, however, to provide a sterile cup. One would provide a sterile cup with a urine collection device to prevent contamination of the urine sample.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gosnell (3,571,817), Van Duyne (3,625,654), Dale (4,203,169), Paulin (4,309,782), Van Buskirk et al. (5,062,304), Bressler et al. (5,146,637), and

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Venter et al. (6,151,972) teach urine collection devices which are supported by the toilet. Jones (5,422,076) and Manschot et al. (4,244,920) teach urine collection devices with support handles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K Handy whose telephone number is (703)-305-0211. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (703)-308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0661.

dkh
September 16, 2003


Jill Warden
Supervisory Patent Examiner
Technology Center 1700